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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/147,490	05/13/1999	FREDERICK A. O. MENDELSON	016786/0215	1793

7590

03/11/2003

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EXAMINER

WEGERT, SANDRA L

ART UNIT

PAPER NUMBER

1647

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/147,490

Applicant(s)

MENDELSON ET AL.

Examiner

Sandra Wegert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) claims 18-24 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) claims 18-24 and 25-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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The examiner in charge of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to examiner Sandra Wegert in Group Art Unit 1647.

DETAILED ACTION

The request filed on 4/19/02 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) is acceptable and a CPA has been established. An action on the CPA follows.

Claims 2, 3, 6-9, 11-17 and 25 are cancelled. Claims 18, 22 and 23 have been amended. Claims 28-33 have been added. Claims 18-24 and 25-33 are pending in the instant Application.

Restriction is required under 35 U.S.C. 121 and 372.

This application contains claims directed to more than one species of the generic invention represented by claims 18-24 and 25-33. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species elections are as follows:

1) Species of biological activity modulated (choose one):

- A) modifying learning and facilitating memory retrieval,
- B) modifying behavior and increas[ing] stereotypic behaviour,
- C) vasoactive effects and dilation of cerebral arteries ,
- D) increas[ing] renal blood flow,

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- D) neurite modeling,
- E) alleviation of the effects of spinal cord injury,
- F) motor neuron activity,
- G) cholinergic neuron activity or
- H) neuronal development.

2) Species of disease or condition (choose one):

- A) dementia,
- B) Alzheimer's disease,
- C) neuro-degenerative disorders involving one or more of cholinergic pathways that are not motor pathways,
- D) neuro-degenerative disorders of motor pathways; motor neuron disease and motor peripheral neuropathies,
- E) neuro-degenerative disorders of sensory pathways and sensory peripheral neuropathies,
- F) brain injury,
- G) spinal cord injury resulting from trauma, alleviation of the effects of spinal cord injury, or
- H) spinal cord injury resulting from hypoxia and spinal cord injury resulting from vascular disease.

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Applicant is required, in reply to this action, to elect a single species from each of the designated groups to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The following claim(s) are generic: Claim 18.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The neuronal and biological activities differ in cell types, location and functional determinants, animal models, and methods of measurement. The diseases differ in etiologies, symptoms, treatments, patients, and treating personnel.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

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currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Advisory Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra Wegert whose telephone number is (703) 308-9346. The examiner can normally be reached Monday - Friday from 9:00 AM to 5:00 PM (Eastern Time). If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Gary Kunz, can be reached at (703) 308-4623.

Official papers filed by fax should be directed to (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

SLW

3/10/03

Gary D. Kunz
GARY KUNZ
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